IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

CRP.No. 1017 of 2005(F)

OP(ELE.)273/2002 OF ADDL.DISTRICT COURT, ALAPPUZHA.
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REVN. PETITIONER/ RESPONDENT:

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA, KAYAMKULAM,
REP. BY ITS MANAGER.

BY ADV. SRI.K.P.DANDAPANI.

RESPONDENTS/PETITIONERS:
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1. **GOPINATHA PILLAI,**
   S/O.VELAYUDHAN PILLAI, AGED 82 YEARS,
   RESIDING AT THARAYIL VADAKKU,
   THAMARAKKULAM EAST, THAMARAKKULAM VILLAGE.

2. **DEVAKI AMMA, AGED 78 YEARS,**
   THARAYIL VADAKKETHIL, KIZHAKKU MURI,
   THAMARAKKULAM VILLAGE.

R1 & R2 BY ADV. SRI.RASHEED C.NOORANAD.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/11/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 1017 OF 2005

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Dated this the 29th day of November, 2007.

O R D E R

This revision petition is preferred against the order of the Addl. District Judge, Alappuzha in OP(Ele.)273/02 whereby the Court ordered additional compensation of Rs.36,707/- with 6% interest.

2. Heard both sides. A perusal of the award, especially paragraph 7, would show that the Court had disposed of the case on the basis of the decision of the Apex Court reported in ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542).*** The Apex in the recent decision reported in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***) held that each case has to be considered independently and it held as follows.

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The

> value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

3. So, in the light of this enunciated principle the matter requires reconsideration at the hands of the Court below and for a proper disposal additional documentary as well as oral evidence are necessary. Therefore, I set aside the impugned order and remit the case back to the trial court for fresh consideration and disposal in accordance with law in the light of the principles laid down in ***2007 (3) KLT page 1.*** The parties are directed to appear before the Court below on 10.1.2008.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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